

# THE STATE OF NEW HAMPSHIRE

## SUPREME COURT

**In Case No. 2005-0096, In the Matter of Catherine Chavolla and Jose Chavolla, the court on February 21, 2006, issued the following order:**

The respondent, Jose Chavolla, appeals the trial court's order in these post-divorce proceedings. He first argues that the court's revised property division was inequitable because it awarded the petitioner, Catherine Chavolla, a "Chavolla family heirloom, which is of utmost sentimental value" to him, in addition to a snowblower and a tractor, and awarded him a Rolex watch, or the right to file an insurance claim for that watch. He argues that, because he no longer has the watch in his possession and because he has no insurable interest in the watch, he receives nothing from the revised property settlement, while the petitioner receives "all the value."

We need not decide whether the trial court had the authority to revise the parties' property settlement because this issue is not before us on appeal. We afford trial courts broad discretion in determining matters of property distribution, alimony and child support. In the Matter of Crowe & Crowe, 148 N.H. 218, 221 (2002). We will not overturn the trial court's decision absent an unsustainable exercise of discretion. Id.

The record supports the trial court's determination that the revised property division was equitable. The court revised the parties' property settlement after finding that the respondent had never given the Rolex watch to the petitioner, despite the parties' 2003 divorce decree requiring that he do so. Although, on appeal, the respondent asserts that he never possessed the Rolex watch, the trial court, in the parties' 2003 divorce decree, found that, at the time of the divorce, he did not dispute that he possessed it. This factual finding is final and not subject to collateral attack in this appeal. Thus, we conclude that given these circumstances the revised property settlement was equitable.

The respondent next asserts that the trial court had no authority to award him a right to file an insurance claim on the watch. Because the respondent has failed to demonstrate that giving him a right to an insurance claim "was clearly untenable or unreasonable to the prejudice of his case," State v. Lambert, 147 N.H. 295, 296 (2001), we conclude that this part of the trial court's order was a sustainable exercise of discretion.

The trial court, in effect, awarded the Rolex watch to the respondent.

Pursuant to the court's order, the Rolex watch no longer belonged to the petitioner, but now belonged, instead, to the respondent. In also giving the respondent a right to file an insurance claim on the watch, the court was merely reiterating that the watch now belonged to him.

Finally, the respondent contends that the trial court erroneously ruled that he was collaterally estopped from arguing that he had no insurable interest in the Rolex watch. We do not share the respondent's interpretation of the court's order. The trial court ruled that the respondent could not collaterally attack the court's 2003 finding that he had the watch in his possession at the time of the divorce. We find no error in this ruling. The trial court made no finding as to whether the respondent was collaterally estopped from arguing that he lacked an insurable interest in the watch.

Affirmed.

DALIANIS, DUGGAN and GALWAY, JJ., concurred.

**Eileen Fox,  
Clerk**